

EXHIBIT B

United States District Court

2662-012411

SOUTHERN

DISTRICT OF

NEW YORK

Benjamin W. Mitchell, Jr.

v.

Prison Health Services, Inc.;
Roberto De Guzman, M.D.,
Official Capacity; Ms. Davis,
Nurse, Official Capacity; Ms.
Baptiste, RN, Official Capacity,

AMENDED
SUMMONS IN A CIVIL CASE

CASE NUMBER: 07 Civ 8268 (PKC)
JUDGE CASTEL

TO: (Name and address of defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Pro Se Benjamin W. Mitchell, Jr.
07-A-5226
Upstate Correctional Facility
P.O. Box 2001
309 Bare Hill Road
Malone, New York 12953

**Defendant(s) shall reply (answer or move)
to this complaint within the time set forth
on this summons. Prison Litigation Reform
Act § 7(2)(g)(2).
SO ORDERED.**

Kimba M. Wood

KIMBA M. WOOD
Chief Judge

An answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

JAN 14 2008

CLERK

DATE

Licky Doriga
BY DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	Date
NAME OF SERVER (PRINT)	Title
CHECK ONE BOX BELOW TO INDICATE APPROPRIATE METHOD OF SERVICE	
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____	
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____	
<input type="checkbox"/> Returned unexecuted: _____	
<input type="checkbox"/> Other (specify) _____	
<div style="text-align: center;"> <p>RETURN OF SERVICE (OPTIONAL)</p> <p>TO BE COMPLETED BY THE SERVER</p> <p>IN THIS SUMMONS, PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT WAS MADE BY THE SERVER.</p> <p>STATE OF TEXAS</p> </div>	
STATEMENT OF SERVICE FEES	
TRAVEL	TOTAL
SERVICES	
DECLARATION OF SERVER	
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.	
Executed on _____ Date	Signature of Server _____
Address of Server 1. MICHAEL McMAHON	

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

JUDGE CASTEL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENJAMIN W. MITCHELL JR

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

PRISON HEALTH SERVICES, INC

ROBERTO DE GUZMAN M.D. OFFICIAL CAPACITY

MS. DAVIS, NURSE OFFICIAL CAPACITY

MS. BAPTISTE, RN, OFFICIAL CAPACITY

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

I.F.P. GRANTED.

Leave to proceed in this Court
without payment of fees is
authorized. 28 U.S.C. S 1915.

So Ordered; SEP 21 2007

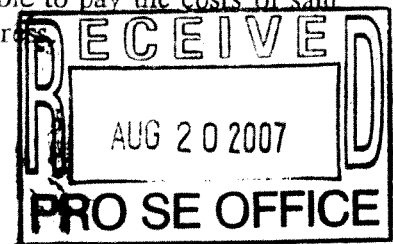
Civ. () ()

(Date)
REQUEST TO PROCEEDIN FORMA PAUPERIS
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Chief Judge Wood

I, BENJAMIN W. MITCHELL JR, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

1. If you are presently employed:
- give the name and address of your employer
 - state the amount of your earnings per month



2. If you are NOT PRESENTLY EMPLOYED:
- state the date of start and termination of your last employment
 - state your earnings per month

YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

NOVEMBER 2002 - OCTOBER 2005 \$2,000.00 monthly

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

MY BROTHER JEFF MITCHELL 80.00 monthly

- Are you receiving any public benefits? ☒ No. ☐ Yes, \$_____.
- Do you receive any income from any other source? ☐ No. ☒ Yes, \$_____.

4. Do you have any money, including any money in a checking or savings account? If so, how much?

☒ No. ☐ Yes, \$ _____.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No. ☐ Yes, \$ _____.

6. Do you pay for rent or for a mortgage? If so, how much each month?

☒ No. ☐ Yes, _____.

7. List the person(s) that you pay money to support and the amount you pay each month.

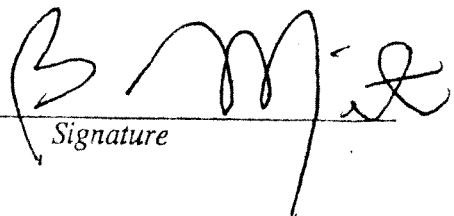
8. State any special financial circumstances which the Court should consider.

I lost everything i ever owned i have no money

I understand that the Court shall dismiss this case if I give a false answer to any questions in this declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 11 day of august, 2007.
date month year


Signature

United States District Court
Southern District of New York

PRISONER AUTHORIZATION

Mailed to Plaintiff by the Court on this date: _____

RE: BENJAMIN W. MITCHELL JR

(Enter the full name of the plaintiff(s).)

- v -

PRISON HEALTH SERVICES,

(Enter the full name of the defendant(s).)

NOTICE IS HEREBY GIVEN THAT THIS ACTION WILL BE DISMISSED UNLESS PLAINTIFF COMPLETES AND RETURNS THIS AUTHORIZATION FORM TO THIS COURT WITHIN FORTY-FIVE (45) DAYS FROM THE DATE OF THIS NOTICE.


The Prison Litigation Reform Act ("PLRA" or "Act") amends the *in forma pauperis* statute (28 U.S.C. § 1915) and applies to your case. Under the PLRA, you are required to pay the full filing fee when bringing a civil action if you are currently incarcerated or detained in any facility. If you do not have sufficient funds in your prison account at the time your action is filed, the Court must assess and collect payments until the entire filing fee of \$350 has been paid, no matter what the outcome of the action.

SIGN AND DATE THE FOLLOWING AUTHORIZATION:

I, BENJAMIN W. MITCHELL JR (print or type your name), request and authorize the agency holding me in custody to send to the Clerk of the United States District Court for the Southern District of New York, a certified copy of my prison account statement for the past six months. I further request and authorize the agency holding me in custody to calculate the amounts specified by 28 U.S.C. § 1915(b), to deduct those amounts from my prison trust fund account (or institutional equivalent), and to disburse those amounts to the United States District Court for the Southern District of New York. This authorization shall apply to any agency into whose custody I may be transferred.

I UNDERSTAND THAT BY SIGNING AND RETURNING THIS NOTICE TO THE COURT, THE ENTIRE COURT FILING FEE OF \$350 WILL BE PAID IN INSTALLMENTS BY AUTOMATIC DEDUCTIONS FROM MY PRISON TRUST FUND ACCOUNT EVEN IF MY CASE IS DISMISSED.

AUGUST 14, 2007
Date Signed


Signature of Plaintiff

N.Y.S.I.D. # _____

Local Jail/Facility I.D. # _____

Federal Bureau of Prisons I.D. # _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE CASTEL

BENJAMIN W. MITCHELL JR

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

PRISON HEALTH SERVICES INC
ROBERTO DE GUZMAN M.D. OFFICIAL CAPACITY
MS DAVIS NURSE, OFFICIAL CAPACITY
MS BAPTISTE, RN, OFFICIAL CAPACITY

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name BENJAMIN W. MITCHELL JR
ID # [REDACTED] 15b38
Current Institution rikers island g.r.v.c.
Address east elmhurst, new york 11370

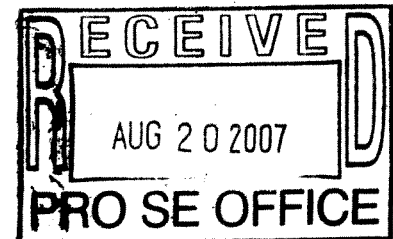
- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

07 CV 3268

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)



Defendant No. 1 Name PRISON HEALTH SERVICES INC Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 2 Name ROBERTO DE GUZMAN M.D Shield # _____
 Where Currently Employed rikers island
 Address 0909 hazen st east elmhurst ny 11370

Defendant No. 3 Name Ms Davis nurse, Shield # _____
 Where Currently Employed 0909 hazen street, riker
 Address island ny 11370, east elmhurst

Defendant No. 4 Name ms Baptiste rn, Shield # _____
 Where Currently Employed rikers island
 Address east elmhurst ny 11370

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? rikers
island g.r.v.c. medical clinic

B. Where in the institution did the events giving rise to your claim(s) occur? medical
clinic

C. What date and approximate time did the events giving rise to your claim(s) occur? _____
since march 2006 to aug. 2007

D. Facts: see attached

What
happened
to you?

Who did
what?

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

mental anguish violation of constitutional rights
cruel and unusual punishment the right to exercise in the
yard which in eighteen months plaintiff was not able to do

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes x No

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

RIKERS ISLAND G.R.V.C.

- B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes X No Do Not Know

- C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes No Do Not Know X

If YES, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes X No

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes No

- E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

WITH PROGRAM WHERE ALL GRIEVANCES GO

1. Which claim(s) in this complaint did you grieve? ALL CLAIMS

2. What was the result, if any? NONE, NOT ONE RESPONSE

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

- F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you

COMPLAINT:

D. Facts:

PHS, INC

On february 22, 2006 I met with Ms. Baptiste of PHS, on Rikers Island in the G.R.V.C.clinic Ms. Baptiste is a specialty nurse, she flyshed the medi-port that is in my chest area attached to my main vein. The medi-port was placed in my chest for the chemotherapy I have received in september 2005. Also in october of 2005 by Dr. Kim, whom works at Jamacia hospital, in queens, new york. I was diagnosed for malignant gastric cancer also in sept. 2005. Ms. Baptiste wrote in my medical records to flush monthly in April of 2006 I stopped seeing MS. Baptiste she instructed Ms. Davis a nurse employed by PHS. This was not done PHS, nurseing staff failed to flush my medi-port monthly as instructed. Exhibit B,C, and D shows how careless the services are for inmates at Rikers Island. Out of seventeen months the medi-port in my chest was flushed only eight times or eight months. Ms. Davis would make excuses like I thought you left the building or I thought you were gone. But I had to worry every month that passed by about my health. An infection could have set in at anytime. In addition I was not able to go to the yard for the eighteen months on Rikers Island. As per doctor Guzman instructions. May 2006 Bellvue Hospital did an biopsy and a week later a laparoscopy/ultra sound where they found no traces of malignant gastric cancer. Exhibit E. Since May 2006 after no cancer was found I have been trying to get this medi-port removed. As of August 2007 it has not been removed. I fear for my life everyday.

informed, when and how, and their response, if any:
I GAVE MY GRIEVANCE TO A CAPTAIN

NO RESPONSE

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. EACH TIME I SEE A DOCTOR TO REMOVE THE

MEDICAL PORT I HAVE BEEN TOLD THAT AN
APPOINTMENT IS SET WITH BELLVUE HOSPITAL

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). I AM SEEKING MONETARY

COMPENSATION FOR PAIN AND SUFFERING VIOLATING MY

RIGHTS TO THE ACTIVITIES RECREATION THAT I HAVE NOT DONE SINCE
I HAVE BEEN ON THIS ISLAND FIVE MILLION DOLLARS AND INJUNCTIVE

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes _____ No X

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes _____ No X

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes _____ No _____

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 12 day of august, 2007

Signature of Plaintiff

Inmate Number

Institution Address

15b38

RTKERS ISLAND G.R.V.C.

0909 Hazen street

East Elmhurst, new york

11370

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 14 day of august, 2007, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

